

## **DEPARTMENT OF STATE REVENUE**

### **Revenue Ruling 2000-01 IT**

**February 10, 2000**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

### **ISSUES**

#### **I. Adjusted Gross Income Tax – Research Expense Tax**

Credits – Eligibility

Authority: IC 6-3.1-4-1 et. seq.

#### **II. Adjusted Gross Income Tax – Research Expense Tax**

Credits – Application

Authority: IC 6-3.1-4-1 et. seq.

#### **III. Sales and Use Tax – Manufacturing Exemption**

Authority: IC 6-2.5-5-3, IC 6-2.5-5-4

### **STATEMENT OF FACTS**

Taxpayer is an out of state corporation in the business of steel production. Taxpayer presently has offices and production facilities in the State of Indiana. Taxpayer is in the process of developing a new steel production methodology which, if successful, would represent the next generation of sheet steel mill production.

Taxpayer's new technology has not been proven successful in a full-scale production context and may yet prove to be unreliable or economically unfeasible. This process' ultimate viability can only be proven under full production conditions such as those contemplated by Taxpayer. Taxpayer asserts that only under such conditions can the

quality of the end product be tested, the production methodology scrutinized, the metallurgy perfected, and the saleability of the product determined.

Taxpayer's intends to put into production a new bar mill which will also utilize developing and experimental technology. The developing bar mill technology will be the first of its kind in the United States, if successful. Again, as is the case with the steel mill Taxpayer asserts that until this conceptualized bar mill is built, and its ultimate production process developed through research and experimentation, its ultimate viability is uncertain.

## **DISCUSSION**

### **I. Research Expense Tax Credits – Eligibility**

Taxpayer requests that the Department rule that the steel mill and bar mill qualify for the "research tax credits" provided by IC 6-3.1-4-1 et. seq.

IC 6-3.1-4-2 states that "[a] taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year." Qualified research expense is defined in IC 6-3.1-4-1 as having the same meaning as "qualified research expense" as defined by IRC Section 41(b).

## **RULING**

The steel mill and bar mill qualify for research expense tax credits pursuant to IC 6-3.1-4-2 provided the research associated with the steel mill and bar mill is accepted by the IRS and results in "qualified research expense" as that term is defined in IRC Section 41(b)(1).

## **DISCUSSION**

### **II. Research Expense Tax Credits – Application**

Taxpayer requests that the Department rule that pursuant to Indiana Code Section 6-3.1-4 et. seq., all "wage" and "supply" costs associated with the steel mill and bar mill and incurred by the Taxpayer subsidiary corporation or corporations or division or divisions which will own the steel mill and bar mill qualify as "Indiana qualified research expenses" as defined in Indiana Code Section 6-3.1-4-1 so as to qualify for the Indiana income tax research expense tax credits. For purposes of this ruling, such Indiana qualified research expenses would encompass all wage and supply costs associated with the steel mill and bar mill.

IC 6-3.1-4-2 states that "[a] taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year." Qualified research expense is defined in IC 6-3.1-4-1 as having the same meaning as "qualified research expense" as defined by IRC Section 41(b).

## **RULING**

The wage and supply costs associated with the steel mill and bar mill and incurred by the taxpayer subsidiary corporation or corporations or divisions or business will qualify as "Indiana qualified research expenses" as defined by IC 6-3.1-4-1 providing the research to which such wage and supply costs are associated is accepted by the IRS and results in "qualified research expenses" as that term is defined in IRC 41(b)(1).

## **DISCUSSION**

### **III. Sales and Use Tax – Manufacturing Exemption**

Taxpayer requests that the Department rule that all tangible personal property purchased by Taxpayer as manufacturing machinery, tools and equipment related to the steel mill and bar mill will qualify for Indiana sales and use tax exemption pursuant to IC 6-2.5-5-3, IC 6-2.5-5-1 and IC 6-2.5-5-6 as long as such machinery, tools and equipment produce a product held for resale.

IC 6-2.5-5-3 exempts machinery, tools and equipment from sales and use tax if the person acquiring the property acquires it for direct use in the direct production of other tangible personal property. Similarly, IC 6-2.5-5-1 exempts property consumed in production and IC 6-2.5-5-6 exempts property incorporated into other tangible personal property in a production process.

Despite the experimental nature of the steel mill and the bar mill, the intent of both operations is to produce a marketable product, And to the extent that both operations ultimately do so, they are entitled to the exemptions afforded any other manufacturer.

## **RULING**

Taxpayer is entitled to the exemptions contained in IC 6-2.5-5-3, IC 6-2.5-5-1 and IC 6-2.5-5-6 as long as such property is used to actually produce a product for resale.

## **CAVEAT**

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this

ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Department of State Revenue